

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**E. MATTHEW BURCH, Individually )  
And On Behalf of All Others Similarly )  
Situating, )**

**Plaintiff, )**

**Case No. 13-cv-00237**

**v. )**

**CAMBER CORPORATION, )**

**Defendant. )**

**APPENDIX TO MOTION TO DISMISS OF CAMBER CORPORATION**

Defendant Camber Corporation submits the following appendix in support of its motion to dismiss. This appendix contains the following:

1. Plaintiff's Notice of Acceptance of Camber's Rule 68 Offer of Judgment and attached Exhibit 1.
2. Draft order granting motion to dismiss.

Respectfully Submitted,

s/ Michael W. Fox

Michael W. Fox

OGLETREE, DEAKINS, NASH, SMOAK  
& STEWART, P.C.

301 Congress Avenue, Suite 1150

Austin, Texas 78701

Telephone: 512-344-4711

Fax: 512-344-4701

[michael.fox@ogletreedeakins.com](mailto:michael.fox@ogletreedeakins.com)

s/ J.R. Brooks

J.R. Brooks

s/ David J. Canupp

David J. Canupp

LANIER FORD SHAVER & PAYNE, P.C.

P. O. Box 2087

2101 West Clinton Avenue, Suite 102 (35805)

Huntsville, AL 35804

Phone: 256-535-1100

Fax: 256-533-9322

E-mails: [djc@lanierford.com](mailto:djc@lanierford.com) & [jrb@lanierford.com](mailto:jrb@lanierford.com)

Attorneys for Defendant Camber Corporation

**CERTIFICATE OF SERVICE**

I certify that I have filed the foregoing with the Clerk of the Court using the ECF System, which will send notification of such filing to those parties of record who are registered for electronic filing, and further certify that those parties of record who are not registered for electronic filing have been served by mail by depositing a copy of the same in the United States mail, first class postage prepaid and properly addressed to them as follows:

R. John Cullar  
Cullar & McLeod, L.L.P.  
Baylor Tower  
801 Washington Avenue, Suite 500  
Waco, TX 76701  
[jcullar@hotmail.com](mailto:jcullar@hotmail.com)

on this the 29th day of August, 2013

s/ David J. Canupp  
David J. Canupp

# EXHIBIT 1

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS,  
WACO DIVISION**

**E. MATTHEW BURCH,**  
Plaintiff

v.

**CAMBER CORPORATION,**  
Defendant

§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. W-13-CV-0237-WSS**

**NOTICE OF ACCEPTANCE OF OFFER OF JUDGMENT**

1. Plaintiff is E. Matthew Burch; defendant is Camber Corporation.
2. Plaintiff sued defendant for violations of the Fair Labor Standards Act.
3. Defendant served an unconditional offer of judgment, attached as Exhibit 1, on plaintiff on August 20, 2013, which is more than 14 days before the date this case is set for trial.
4. As authorized by Federal Rule of Civil Procedure 68, plaintiff accepts defendant's offer of judgment and asks that the clerk enter judgment in accordance with the offer.
5. Per Local Rule CV-7 and the offer of judgment, plaintiff will file an application for attorney's fees within 14 days of entry of judgment.

**[Signature Block Follows]**

Respectfully submitted,

**CULLAR & McLEOD, L.L.P.**  
Baylor Tower  
801 Washington Avenue, Suite. 500  
Waco, Texas 76701  
Phone: (254) 753-1991  
Fax: (254) 753-0244  
Email: jcullar@hotmail.com

By: /s/ John Cullar  
**R. JOHN CULLAR**  
STATE BAR No. 05208400

**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

This pleading was served on all counsel of record in compliance with the Federal Rules of Civil Procedure on this 30th day of August, 2013, via the Court's CM/ECF system.

/s/ John Cullar  
**R. JOHN CULLAR**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

E. MATTHEW BURCH  
Plaintiff

v.

CAMBER CORPORATION,  
Defendant.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Case No. 6:13-cv-00237-WSS

RULE 68 OFFER OF JUDGMENT OF DEFENDANT CAMBER CORPORATION  
TO PLAINTIFF E. MATTHEW BURCH

Pursuant to Federal Rule of Civil Procedure 68, Defendant, Camber Corporation hereby makes the following offer to allow judgment to be taken against it in this lawsuit and in favor of Plaintiff E. Matthew Burch ("Plaintiff") for the full amount claimed by Plaintiff, including wages, liquidated damages, costs, prejudgment interest, and attorneys' fees, as follows:

1. Defendant will pay Plaintiff the sum of \$16,000.00 which is equal to or greater than the full amount of overtime pay and liquidated damages that would allegedly be due to him under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., for all the uncompensated overtime he alleges that he worked in his Plaintiff's Original Complaint.

2. In addition, Defendant will also pay the Plaintiff's reasonable costs and attorney's fees, in an amount to be determined by the Court after a motion seeking such amounts has been filed, briefed, and argued by the parties, including any fees incurred in establishing the appropriate amount of fees.

3. This offer of judgment does not apply or extend to anyone other than Plaintiff.

4. Pursuant to Rule 68, Plaintiff shall have 14 days after the service of this

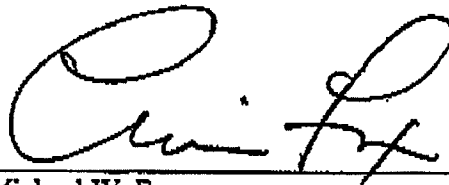


offer to serve written notice that this offer is accepted. Pursuant to Rule 68, the offer is withdrawn if written notice of its acceptance is not served by Plaintiff within 14 days of this offer.

5. Pursuant to Rule 68, if written notice that the offer has been accepted is not served within 14 days, and the judgment finally obtained by Plaintiff is not more favorable than the offer, Plaintiff shall become obligated to pay the costs incurred by Defendant after the making of this offer.

6. This offer of judgment is intended to resolve, finally and fully, the claims and causes of action alleged by Plaintiff against Defendant, and is not to be construed as an admission that Defendant is liable in this action to Plaintiff or any other person or as an admission that Plaintiff or any other person has suffered any damages as alleged.

Offer made this 20 of August, 2013.



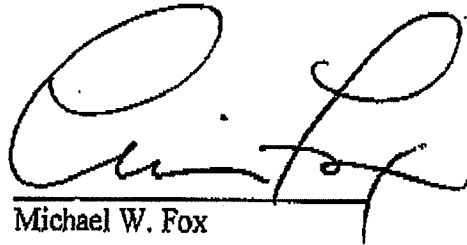
Michael W. Fox  
Texas Bar No. 07335500  
michael.fox@ogletreedeakins.com  
OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.  
301 Congress Avenue, Suite 1150  
Austin, Texas 78701  
Tel: 512.344.4700  
Fax: 512.344.4701



### CERTIFICATE OF SERVICE

The undersigned certifies that on the 20 of August, 2013 I served the following by e-mail and certified mail, return receipt requested, upon counsel of record as follows:

R. John Cullar  
Cullar & McLeod  
Baylor Tower  
801 Washington Avenue, Suite 500  
Waco, Texas 76701



Michael W. Fox

15839403.2

# EXHIBIT

## 2

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**E. MATTHEW BURCH, Individually )  
And On Behalf of All Others Similarly )  
Situating,** )

**Plaintiff,** )

**Case No. 13-cv-00237**

**v.** )

**CAMBER CORPORATION,** )

**Defendant.** )

**ORDER**

Before the Court is defendant Camber Corporation's motion to dismiss filed pursuant to Fed. R. Civ. P. 12(b)(1). The Court finds that the motion is due to be granted because the claims asserted by plaintiff E. Matthew Burch have been rendered moot by his acceptance of the offer of judgment propounded by Camber Corporation.

Accordingly, it is ORDERED that this action is DISMISSED as MOOT. Costs are taxed as paid.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE